



Appropriations Committee

Monday, March 21, 2011
12:30 PM – 3:30 PM
212 Knott Building

Meeting Packet

Dean Cannon
Speaker

Denise Grimsley
Chair



The Florida House of Representatives

Appropriations Committee

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Meeting Agenda

Monday, March 21, 2011

212 Knott Building

12:30 PM – 3:30 PM

- I. Call to order/Roll Call
- II. Opening Remarks by Chair Grimsley
- III. Consideration of the following bills:


CS/HB 1021--Labor and Employment by State Affairs Committee, Dorworth

HB 4097--Repealing Budget Provisions by Brodeur

- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1021 Labor and Employment
SPONSOR(S): State Affairs Committee, Dorworth and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee	12 Y, 6 N, As CS	Kliner	Hamby
2) Appropriations Committee		Topp ^{BOT} Delaney _{gno}	Leznoff 

SUMMARY ANALYSIS

The bill prohibits state, county, municipal, and special district employee payroll deductions for dues or uniform assessments of an employee organization. It further prohibits public employee payroll deductions for purposes of political activity, including contributions to a candidate, political party, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under 501(c)(4), or s. 527, of the Internal Revenue Code, which refer to certain tax exempt and political organizations, respectively. The bill deletes the explicit authorization for "employee organizations" that are the exclusive bargaining agent for a unit of state employees to deduct membership dues.

With regard to labor organizations generally, unless an employee has executed a written authorization, the labor organization may not use dues, uniform assessments, fines, penalties, or special assessments paid by an employee to make contributions or expenditures, as defined in s. 106.011, F.S. The written authorization for political expenditures must be executed by the employee separately for each fiscal year and must be accompanied with a detailed account, provided by the labor organization, of all political contributions and expenditures made by the labor organization in the preceding 24 months. The labor organization is required to estimate its expected contributions and expenditures for the fiscal year and reduce the amount collected during the fiscal year from each employee that has not executed a written authorization. If the actual contributions and expenditures of the labor organization exceed its estimated contributions and expenditures, each employee that has not executed a written authorization is entitled to a refund from the labor organization at the end of the fiscal year.

The employee may revoke the authorization at any time. If an employee revokes the authorization, the employee is entitled to a pro rata reduction of dues, uniform assessments, fines, penalties, or special assessments for the remainder of the fiscal year of the labor organization. A labor organization may not require an employee to provide the authorization for political contributions and expenditures as a condition of membership in the labor organization.

The bill deletes language made obsolete by the provisions of the bill.

The bill provides a severability clause, in the event any provision of this act or its application to any person or circumstance is held invalid.

Fiscal Impact: The bill will have an positive, but insignificant, fiscal impact on public employers.

The bill provides an effective date of July 1, 2011, applying to all collective bargaining agreements entered into after that date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Employee Unions and Federal Labor Law

The Federal National Labor Relations Act (NLRA)¹ of 1935 and the Federal Labor Management Relations Act of 1947² constitute a comprehensive scheme of regulations guaranteeing to private employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.³ The NLRA also established the National Labor Relations Board (NLRB), an independent federal agency that administers and interprets the statute and enforces its terms.

The NLRA contains no express preemption provision, and because the NLRA regulates in an area of law traditionally regulated by the states, any NLRA preemption analysis starts with the basic assumption that Congress did not intend to displace state law. Under the *Garmon* preemption doctrine, state regulations and causes of action are presumptively preempted if they concern conduct that is actually or arguably either prohibited or protected by the NLRA.⁴ A state regulation or cause of action may, however, be sustained if the behavior to be regulated is behavior that is of only peripheral concern to the federal law or touches interests deeply rooted in local feeling and responsibility. In such cases, the state's interest in controlling or remedying the effects of the conduct is balanced against both the interference with the National Labor Relations Board's ability to adjudicate controversies committed to it by the NLRA, and the risk that the state will sanction conduct that the NLRA protects.⁵

Employee Unions and Florida's Labor Law

In 1943, the Florida Legislature passed legislation to regulate the activities of union officials and certain aspects of labor-management relations.⁶ Among the rights created was the right of employees to organize themselves. The Declaration of Rights of the Florida Constitution was amended to protect workers from employment discrimination resulting from membership or non-membership in an employee organization. As such, Florida is one of twenty-two states with right-to-work laws that secure the right of employees to decide whether or not to join or financially support a labor union.⁷ As amended in 1968, Article I, section 6, of the Florida Constitution states:

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a

¹29 U.S.C. §§ 151 to 169. See, *Nash v. Florida Indus. Commission*, 389 U.S. 235, 88 S. Ct. 362, 19 L. Ed. 2d 438 (1967).

²29 U.S.C. §§ 141 to 187. Also known as the Taft-Hartley Act, the Labor Management Relations Act prohibits jurisdictional strikes and secondary boycotts by unions, authorizes individual states to pass "right-to-work laws", regulates pension and other benefit plans established by unions, and provides that federal courts have jurisdiction to enforce collective bargaining agreements.

³With limited exceptions, the NLRA, and amendments thereto, addresses private sector employee/employer relations only, and does not provide employees of state and local governments with the right to organize or engage in union activities, except to the extent that the United States Constitution protects their rights to freedom of speech and freedom of association. Such labor rights derive from state law. Governmental employees were covered, however, in the Fair Labor Standards Act, 29 U.S.C. §§ 201 to 219. Passed in 1938, the Act establishes standards for minimum wages, overtime pay, record keeping, and child labor.

⁴*San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 79 S.Ct. 773, 3 L.Ed.2d 775 (1959),

⁵2003 A.L.R. Fed. 1 (Originally published in 2003)

⁶Chapter Law 21968, 1943. Formerly in Chapter 481, F.S. Labor organizations are regulated in Chapter 447, F.S.

⁷The remaining states permit union security provisions in collective labor contracts that may require the employer hire only union members, ensuring a so-called "closed shop," or require that newly hired workers join the union within a certain period. Other states with right to work laws include Alabama, Arizona, Arkansas, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

See: <http://www.nrtw.org/rtws.htm>

labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

Chapter 447, F.S., regulates labor organizations. Part I provides general provisions applicable to labor unions in the state and provides employees' right to self-organization and to refrain from such activity. Part I places regulatory oversight of licensing and permitting union representatives, registration of labor organizations, and collection of fees with the Department of Business and Professional Regulation.

Part II of chapter 447, F.S., regulates labor organizations for public employees, and establishes the Public Employees Relations Commission to regulate collective bargaining in the state. The public policy of the state is to promote harmonious and cooperative relationships between employees and governments and to assure orderly and uninterrupted government operations and functions.

Under current law, an employee organization⁸ that is certified as a bargaining agent has the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.⁹ Authorizations are revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Deductions commence upon the bargaining agent's written request to the employer. Reasonable costs to the employer of said deductions are a proper subject of collective bargaining. Such right to deduction, unless revoked by a court due to a violation on the prohibition on strikes, is operable for so long as the employee organization remains the certified bargaining agent for the employees in the unit. The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.¹⁰

Counties, municipalities, and special districts as well as state departments, agencies, bureaus, commissions, and officers are authorized and permitted in their sole discretion (state entities require the concurrence of the Department of Financial Services) to make deductions from the salary or wage of any employee or employees in such amount as is authorized and requested by such employee or employees and for such purpose as is authorized and requested by such persons and pay such sums so deducted as directed by such persons.¹¹

Political Contributions

For purposes of campaign financing:

A "contribution" is defined as:

- A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication.
- A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combinations of these groups.
- The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

⁸ An employee organization is the public employee's labor union. See, subsection 447.02(1), F.S.

⁹ Subsection 447.203(12), F.S., defines bargaining agent as the employee organization which has been certified by the Public Employees Relations Commission as representing the employees in the bargaining unit or its representative.

¹⁰ Section 447.303, F.S.

¹¹ Sections 110.114 and 112.171, F.S. Voluntary payroll deductions may include contributions to charities, non-profit organizations, retirement plans, deferred compensation and health plans, academic tuition and fees, membership dues for professional organizations, and labor organization dues (as well as funds, committees or subsidiary organizations maintained by labor organizations).

- The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.¹²

An "expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. There is an exception for internal newsletters.¹³

Effect of Proposed Changes

The bill prohibits state, county, municipal, and special district employee payroll deductions for dues and uniform assessments of an employee organization. It further prohibits public employee payroll deductions for purposes of political activity, including contributions to a candidate, political party, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under 501(c)(4), or s. 527, of the Internal Revenue Code¹⁴. The bill deletes the explicit authorization for "employee organizations" that are the exclusive bargaining agent for a unit of state employees to deduct membership dues.

With regard to labor organizations generally, unless an employee has executed a written authorization, the labor organization may not use dues, uniform assessments, fines, penalties, or special assessments paid by an employee to make contributions or expenditures, as defined in s. 106.011, F.S. The written authorization for political expenditures must be executed by the employee separately for each fiscal year and must be accompanied with a detailed account, provided by the labor organization, of all political contributions and expenditures made by the labor organization in the preceding 24 months. The labor organization is required to estimate its expected contributions and expenditures for the fiscal year and reduce the amount collected during the fiscal year from each employee that has not executed a written authorization. If the actual contributions and expenditures of the labor organization exceed its estimated contributions and expenditures, each employee that has not executed a written authorization is entitled to a refund from the labor organization at the end of the fiscal year.

The employee may revoke the authorization at any time. If an employee revokes the authorization, the employee is entitled to a pro rata reduction dues, uniform assessments, fines, penalties, or special assessments for the remainder of the fiscal year of the labor organization. A labor organization may not require an employee to provide the authorization for political contributions and expenditures as a condition of membership in the labor organization.

With regard to public employee labor organizations, the bill prohibits public employers from deducting or collecting money from their employees for an employee organization. The bill deletes language made obsolete by the previous sections of the bill, specifically:

- Authorizing a bargaining agent to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments
- Allowing the employee to revoke authorization for employer deduction with 30 days' written notice
- Allowing reasonable costs to the employer for deductions as a subject for collective bargaining
- Providing procedures regarding the deduction and revocation process

In addition, the bill deletes references to deductions or check-offs by employee organizations with respect to penalties for violation of the strike prohibition, which is also made obsolete by previous provisions of the bill.

¹² Section 106.011, F.S.

¹³ Section 106.011, F.S.

¹⁴ Non-profit local associations of employees and political organizations.

The bill provides a severability clause, in the event any provision of this act or its application to any person or circumstance is held invalid.

The bill provides an effective date of July 1, 2011 applicable to all collective bargaining agreements entered into after that date.

B. SECTION DIRECTORY:

Section 1 amends s. 110.114, F.S., to prohibit state employee payroll deductions for dues and uniform assessments of an employee organization, and further prohibits deductions for purposes of political activity.

Section 2 amends s. 112.171, F.S., to prohibit county, municipal, and special district employee payroll deductions for dues, uniform assessments, penalties, or special assessments of an employee organization, and further prohibits deductions for purposes of political activity.

Section 3 creates s. 447.18, F.S., to require an employee/union member to annually submit written authorization to the union to use dues, uniform assessments, fines, penalties, or special assessments paid by an employee to make contributions or expenditures of a political nature. This section also requires an accounting of union political expenditures or contributions for the preceding 24 months, provides for a pro-rata reduction of dues and assessments in the absence of written authorization, provides for revocation of employee authorization, and prohibits employee authorization as a condition of union membership.

Section 4 amends s. 447.303, F.S., to prohibit public employers from deducting or collecting money from their employees for an employee organization. This section removes language made obsolete by the prohibition of employee payroll deductions for union activity.

Section 5 amends s. 447.507, F.S., deleting references to payroll deductions or check-offs by employee organizations with respect to penalties for violation of the strike prohibition.

Section 6 states that if any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

Section 7 provides an effective date of July 1, 2011 applicable to all collective bargaining agreements entered into after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See, Section D FISCAL COMMENTS

2. Expenditures:

See, Section D FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See, Section D FISCAL COMMENTS

2. Expenditures:

See, Section D FISCAL COMMENTS

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent financial institutions' may "sweep" accounts receiving payroll deductions from members of labor organizations, institutions servicing state labor organizations may lose some indeterminate financial benefit.¹⁵

Employee organizations are likely to have more difficulty collecting dues from public employees. In addition they are likely to have more difficulty collecting funds from employees for political purposes.

D. FISCAL COMMENTS:

The elimination of payroll deduction for employee organizations may result in a positive, but insignificant, fiscal impact on public employers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill does not provide rule making authority and none is needed to implement provisions therein.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2011, the State Affairs Committee adopted two amendments offered by the bill sponsor. As originally filed, the bill provided that unless an employee executes a written authorization, the employee is entitled to a pro rata refund of any dues, uniform assessments, fines, penalties, or special assessments paid by the employee and used by the labor organization to make contributions or expenditures of a political nature. In the event an employee revokes his or her authorization, the employee is entitled to a refund based upon the portion of the fiscal year in which the authorization is not in effect.

As amended, the bill prohibits a labor organization from using dues, uniform assessments, fines, penalties, or special assessments paid by an employee to make contributions or expenditures, as defined in s. 106.011, without the express written authorization of the employee.

Therefore, rather than provide a refund to an employee, the labor organization will instead reduce the amount collected from a member that does not provide a written authorization, which is based on estimated contributions and expenditures for the fiscal year. If the actual contributions and expenditures of the labor organization exceed its estimated contributions and expenditures, each employee that has not executed a

¹⁵In banking, sweep accounts are primarily used as a legal workaround to the prohibition on paying interest on business checking accounts. In this system, the funds are being described as being "swept overnight" into an investment vehicle of some kind.
<http://free.thebankaccounts.com/2008/06/sweep-account.html>

written authorization is entitled to a refund from the labor organization at the end of the fiscal year. If an employee revokes the authorization, the employee is entitled to a pro rata reduction of such dues, uniform assessments, fines, penalties, or special assessments for the remainder of the fiscal year of the labor organization. The amount of the reduction is based upon the proportion of the contributions and expenditures, as defined in s. 106.011, F.S., in relation to the total annual contributions and expenditures of the labor organization for the preceding fiscal year.

The second amendment provides that changes to Florida law included in the bill are prospective, and apply to collective bargaining agreements executed after the effective date of the bill.

The bill analysis has been updated to reflect the amendments.

1 A bill to be entitled
2 An act relating to labor and employment; amending s.
3 110.114, F.S.; prohibiting a state agency from deducting
4 from employee wages the dues, uniform assessments, fines,
5 penalties, or special assessments of an employee
6 organization or contributions made for purposes of
7 political activity; amending s. 112.171, F.S.; prohibiting
8 a county, municipality, or other local governmental entity
9 from deducting from employee wages the dues, uniform
10 assessments, fines, penalties, or special assessments of
11 an employee organization or contributions made for
12 purposes of political activity; creating s. 447.18, F.S.;
13 prohibiting labor organizations from using dues, uniform
14 assessments, fines, penalties, or special assessments to
15 make political contributions or expenditures without an
16 employee's written authorization; providing for a refund
17 to employees who have not given a written authorization in
18 certain situations; requiring that the labor organization
19 provide notice of such contributions and expenditures;
20 prohibiting a labor organization from requiring an
21 employee to authorize the collection of funds for
22 political contributions and expenditures as a condition of
23 membership in the organization; amending s. 447.303, F.S.;
24 prohibiting a public employer from deducting or collecting
25 from employee wages the dues, uniform assessments, fines,
26 penalties, or special assessments of an employee
27 organization; amending s. 447.507, F.S., relating to
28 violation of the strike prohibition; conforming provisions

29 to changes made by the act; providing for severability;
 30 providing application; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Subsections (1) and (3) of section 110.114,
 35 Florida Statutes, are amended to read:

36 110.114 Employee wage deductions.—

37 (1) The state or any of its departments, bureaus,
 38 commissions, and officers are authorized and permitted, with the
 39 concurrence of the Department of Financial Services, to make
 40 deductions from the salary or wage of any employee or employees
 41 in such amount as shall be authorized and requested by such
 42 employee or employees and for such purpose as shall be
 43 authorized and requested by such employee or employees and shall
 44 pay such sums so deducted as directed by such employee or
 45 employees. The concurrence of the Department of Financial
 46 Services shall not be required for ~~the deduction of a certified~~
 47 ~~bargaining agent's membership dues deductions pursuant to s.~~
 48 ~~447.303 or any~~ deductions authorized by a collective bargaining
 49 agreement.

50 (3) Notwithstanding ~~the provisions of~~ subsections (1) and
 51 (2), deductions may not be made for the deduction of an
 52 employee's membership dues, uniform assessments, fines,
 53 penalties, or special assessments of deductions as defined in s.
 54 447.203(15) for an employee organization, and deductions may not
 55 be made for purposes of political activity, including
 56 contributions to a candidate, political party, political

57 committee, committee of continuous existence, electioneering
 58 communications organization, or organization exempt from
 59 taxation under s. 501(c)(4) or s. 527 of the Internal Revenue
 60 Code as defined in s. 447.203(11) shall be authorized or
 61 permitted only for an organization that has been certified as
 62 the exclusive bargaining agent pursuant to chapter 447 for a
 63 unit of state employees in which the employee is included. Such
 64 deductions shall be subject to the provisions of s. 447.303.

65 Section 2. Subsection (1) of section 112.171, Florida
 66 Statutes, is amended to read:

67 112.171 Employee wage deductions.—

68 (1) The counties, municipalities, and special districts of
 69 the state and the departments, agencies, bureaus, commissions,
 70 and officers thereof are authorized and permitted in their sole
 71 discretion to make deductions from the salary or wage of any
 72 employee or employees in such amount as shall be authorized and
 73 requested by such employee or employees and for such purpose as
 74 shall be authorized and requested by such employee or employees
 75 and shall pay such sums so deducted as directed by such employee
 76 or employees. However, deductions may not be made for the dues,
 77 uniform assessments, fines, penalties, or special assessments of
 78 an employee organization, and deductions may not be made for
 79 purposes of political activity, including contributions to a
 80 candidate, political party, political committee, committee of
 81 continuous existence, electioneering communications
 82 organization, or organization exempt from taxation under s.
 83 501(c)(4) or s. 527 of the Internal Revenue Code.

84 Section 3. Section 447.18, Florida Statutes, is created to

85 read:

86 447.18 Written authorization required to expend certain
 87 employee dues, assessments, fines, or penalties.-

88 (1) A labor organization may not use dues, uniform
 89 assessments, fines, penalties, or special assessments paid by an
 90 employee to make contributions or expenditures, as defined in s.
 91 106.011, without the express written authorization of the
 92 employee. The written authorization must be executed by the
 93 employee separately for each fiscal year of the labor
 94 organization and shall be accompanied by a detailed account,
 95 provided by the labor organization, of all contributions and
 96 expenditures made by the labor organization in the preceding 24
 97 months. The labor organization shall estimate its expected
 98 contributions and expenditures for the fiscal year and shall
 99 reduce the amount collected during the fiscal year from each
 100 employee who has not executed a written authorization. If the
 101 actual contributions and expenditures of the labor organization
 102 exceed its estimated contributions and expenditures, the labor
 103 organization shall provide a refund at the end of the fiscal
 104 year to each employee who has not executed a written
 105 authorization.

106 (2) The employee may revoke the authorization described in
 107 subsection (1) at any time. If an employee revokes the
 108 authorization, the employee is entitled to a pro rata reduction
 109 of such dues, uniform assessments, fines, penalties, or special
 110 assessments for the remainder of the fiscal year of the labor
 111 organization. The amount of the reduction shall be based on the
 112 proportion of the contributions and expenditures, as defined in

113 s. 106.011, in relation to the total annual contributions and
 114 expenditures of the labor organization for the preceding fiscal
 115 year.

116 (3) A labor organization may not require an employee to
 117 provide the authorization described in subsection (1) as a
 118 condition of membership in the labor organization.

119 Section 4. Section 447.303, Florida Statutes, is amended
 120 to read:

121 447.303 ~~Dues;~~ Deduction and collection of dues or uniform
 122 assessments prohibited.—A public employer may not deduct or
 123 collect the dues, uniform assessments, fines, penalties, or
 124 special assessments of an employee organization from the
 125 compensation of any person employed by the public employer. Any
 126 ~~employee organization which has been certified as a bargaining~~
 127 ~~agent shall have the right to have its dues and uniform~~
 128 ~~assessments deducted and collected by the employer from the~~
 129 ~~salaries of those employees who authorize the deduction of said~~
 130 ~~dues and uniform assessments. However, such authorization is~~
 131 ~~revocable at the employee's request upon 30 days' written notice~~
 132 ~~to the employer and employee organization. Said deductions shall~~
 133 ~~commence upon the bargaining agent's written request to the~~
 134 ~~employer. Reasonable costs to the employer of said deductions~~
 135 ~~shall be a proper subject of collective bargaining. Such right~~
 136 ~~to deduction, unless revoked pursuant to s. 447.507, shall be in~~
 137 ~~force for so long as the employee organization remains the~~
 138 ~~certified bargaining agent for the employees in the unit. The~~
 139 ~~public employer is expressly prohibited from any involvement in~~
 140 ~~the collection of fines, penalties, or special assessments.~~

141 Section 5. Subsection (4) and paragraph (a) of subsection
 142 (6) of section 447.507, Florida Statutes, are amended to read:
 143 447.507 Violation of strike prohibition; penalties.-
 144 (4) An employee organization shall be liable for any
 145 damages which might be suffered by a public employer as a result
 146 of a violation of the provisions of s. 447.505 by the employee
 147 organization or its representatives, officers, or agents. ~~The~~
 148 ~~circuit court having jurisdiction over such actions is empowered~~
 149 ~~to enforce judgments against employee organizations, as defined~~
 150 ~~in this part, by attachment or garnishment of union initiation~~
 151 ~~fees or dues which are to be deducted or checked off by public~~
 152 ~~employers.~~ No action shall be maintained pursuant to this
 153 subsection until all proceedings which were pending before the
 154 commission at the time of the strike or which were initiated
 155 within 30 days of the strike have been finally adjudicated or
 156 otherwise disposed of. In determining the amount of damages, if
 157 any, to be awarded to the public employer, the trier of fact
 158 shall take into consideration any action or inaction by the
 159 public employer or its agents that provoked or tended to provoke
 160 the strike by the public employees. The trier of fact shall also
 161 take into consideration any damages that might have been
 162 recovered by the public employer under subparagraph (6) (a) 4.
 163 (6) (a) If the commission determines that an employee
 164 organization has violated s. 447.505, it may:
 165 1. Issue cease and desist orders as necessary to ensure
 166 compliance with its order.
 167 2. Suspend or revoke the certification of the employee
 168 organization as the bargaining agent of such employee unit.

169 ~~3. Revoke the right of dues deduction and collection~~
 170 ~~previously granted to said employee organization pursuant to s.~~
 171 ~~447.303.~~

172 3.4. Fine the organization up to \$20,000 for each calendar
 173 day of such violation or determine the approximate cost to the
 174 public due to each calendar day of the strike and fine the
 175 organization an amount equal to such cost, notwithstanding the
 176 fact that the fine may exceed \$20,000 for each such calendar
 177 day. The fines so collected shall immediately accrue to the
 178 public employer and shall be used by him or her to replace those
 179 services denied the public as a result of the strike. In
 180 determining the amount of damages, if any, to be awarded to the
 181 public employer, the commission shall take into consideration
 182 any action or inaction by the public employer or its agents that
 183 provoked, or tended to provoke, the strike by the public
 184 employees.

185 Section 6. If any provision of this act or its application
 186 to any person or circumstance is held invalid, the invalidity
 187 does not affect other provisions or applications of this act
 188 which can be given effect without the invalid provision or
 189 application, and to this end the provisions of this act are
 190 severable.

191 Section 7. This act shall take effect July 1, 2011, and
 192 shall apply to all collective bargaining agreements entered into
 193 on or after that date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1021 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative(s) Dorworth offered the following:

3
4 **Amendment**

5 Between lines 118 and 119, insert:

6 447.210 Public Employee Release Time Prohibited.-A public
7 employer may not enter into any agreement in which public
8 employees are provided administrative leave, time off with pay,
9 or work-time to conduct any labor union-related activity, or in
10 which support is provided for public employee actions on behalf
11 of labor-union activity.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4097 Repealing Budget Provisions

SPONSOR(S): Brodeur and others

TIED BILLS: IDEN./SIM. BILLS: SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Appropriations Committee		Kramer <i>TK</i>	Leznoff <i>JS</i>

SUMMARY ANALYSIS

Section 216.023, F.S. requires the head of each state agency to submit a final legislative budget request to the Legislature and to the Governor based on the agency's independent judgment of its needs by October 15 of each year. Pursuant to subsection (4)(b) each state agency and the judicial branch are required to submit a one-page summary of information for the preceding year that must contain the following information relating to unit costs:

1. The number of activity units performed or accomplished.
2. Total expenditures for each activity, including amounts paid to contractors and subordinate entities. Expenditures related to administrative activities not aligned with output measures must consistently be allocated to activities with output measures prior to computing unit costs.
3. The cost per unit for each activity, including the costs allocated to contractors and subordinate entities.
4. The total amount of reversions and pass-through expenditures omitted from unit-cost calculations.

These reports have not been utilized in making appropriations decisions, or in policy making or accountability analyses. The bill repeals subsection (4)(b) of s. 216.023, F.S.

Mobility 2000 was created during the 2000 Legislative session in order to advance transportation projects. Section 339.1371, F.S. provides that funds will be used for corridors that link Florida's economic regions to seaports, international airports, and markets to provide connections through major gateways, improved mobility in major urbanized areas, and access routes for emergency evacuation to coastal communities based on analysis of current and projected traffic conditions. The section also provides that in fiscal year 2001-2002 and each year thereafter, the increase in revenue to the State Transportation Trust Fund derived from the law creating the statute must be first used by the Department of Transportation to fund the Mobility 2000 initiative and any remaining funds must be used to fund the Florida Strategic Intermodal System.

Mobility 2000 projects have been completed. The bill repeals s. 339.1371, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Unit-Cost Data: Section 216.023, F.S. requires the head of each state agency to submit a final legislative budget request to the Legislature and to the Governor based on the agency's independent judgment of its needs by October 15 of each year.

This section requires the legislative budget request to include specified information for each program such as the authority for the program, details on trust funds and fees and the total number of positions. Subsection (4)(b) provides that "it is the intent of the Legislature that total accountability measures, including unit-cost data, serve not only as a budgeting tool but also as a policymaking tool and an accountability tool." Each state agency and the judicial branch are required to submit a one-page summary of information for the preceding year that must contain:

1. The final budget for the agency and the judicial branch.
2. Total funds from the General Appropriations Act.
3. Adjustments to the General Appropriations Act.
4. The line-item listings of all activities.
5. The number of activity units performed or accomplished.
6. Total expenditures for each activity, including amounts paid to contractors and subordinate entities. Expenditures related to administrative activities not aligned with output measures must consistently be allocated to activities with output measures prior to computing unit costs.
7. The cost per unit for each activity, including the costs allocated to contractors and subordinate entities.
8. The total amount of reversions and pass-through expenditures omitted from unit-cost calculations.

If an agency does not submit this information, the Legislature is required to reduce the allocation for the agency in the General Appropriations Act by at least 10 percent.

These reports have not been utilized in making appropriations decisions, or in policy making or accountability analyses. In May 2005, the Office of Program Policy Analysis & Government Accountability (OPPAGA) issued a report relating to unit costs.¹ The report indicated that the usefulness of the unit cost information was limited because "many agencies are not allocating all of their costs when calculating their unit costs, and agencies are using different methodologies to calculate their direct and indirect activity costs." According to the report "these differences limit the Legislature's ability to validly compare the efficiency of similar activities performed by different agencies or to assess changes in agency performance over time."

¹ *More Uniform Methodology Is Needed for State Agencies' Unit Cost Information*, Report No. 05-35, May 2005
<http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0535rpt.pdf>

In 2006, the Legislature created a working group consisting of representatives from the Governor's Office, OPPAGA, the Auditor General, the Department of Financial Services, and legislative staff to develop a cost-allocation methodology for agencies to use in the computation of activity and unit costs.²

The workgroup concluded that "to fully achieve the primary goal of creating auditable and comparable unit cost data, the Legislature should consider a number of changes to current cost accounting and indirect cost allocation practices prior to the development of a new unit cost methodology" but indicated that these changes "would likely require significant and potentially costly changes to current agency accounting practices."³

The bill repeals subsection (4)(b) of s. 216.023, F.S. and makes corresponding changes to s. 216.013, F.S., relating to long-range program plans and conforms a cross-reference in s. 489.145, F.S.

Mobility 2000: Mobility 2000 was created during the 2000 Legislative session in Chapter 2000-257, Laws of Fla. in order to advance transportation projects. The act increased the percentage of the rental car surcharge that was to be deposited into the State Transportation Trust Fund, eliminated certain service charges and appropriated funds from General Revenue to the State Transportation Trust Fund.

Section 339.1371, F.S. requires the Department of Transportation, beginning in fiscal year 2000-2001, to allocate sufficient funds to implement the Mobility 2000 initiative. The section requires the department to develop a plan to expend these revenues and amend the current tentative work program for the time period 2000-2001 through 2004-2005 prior to adoption to include Mobility 2000 projects.

The section also requires the department to submit a budget amendment prior to work program adoption requesting budget authority needed to implement the Mobility 2000 initiative. The section provides that funds will be used for corridors that link Florida's economic regions to seaports, international airports, and markets to provide connections through major gateways, improved mobility in major urbanized areas, and access routes for emergency evacuation to coastal communities based on analysis of current and projected traffic conditions.

The section also provides that in fiscal year 2001-2002 and each year thereafter, the increase in revenue to the State Transportation Trust Fund derived from specified sections of Chapter 2000-257, Laws of Florida must be first used by the Department of Transportation to fund the Mobility 2000 initiative and any remaining funds must be used to fund the Florida Strategic Intermodal System created pursuant to s. 339.61.

Mobility 2000 projects have been completed. The bill repeals s. 339.1371, F.S.

B. SECTION DIRECTORY:

² Ch. 2006-146, s. 18, Laws of Fla.

³ *Unit Cost Calculation Workgroup Report Required by Chapter 2006-146, Laws of Florida, December 31, 2006.*

See also, The Legislature Has Taken Steps to Promote the Self-Sufficiency of Regulatory Programs, Report 07-39, September 2007.

Section 1. Amends s. 216.023, F.S., relating to Legislative budget requests to be furnished to Legislature by agencies.

Section 2. Repeals s. 339.1371, F.S., relating to Mobility 2000.

Section 3. Amends s. 216.013, F.S., relating to long-range program plan.

Section 4. Amends s. 489.145, F.S., relating to guaranteed energy, water and wastewater performance savings contracting.

Section 5. Provides effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to repealing budget provisions; amending
 3 s. 216.023, F.S.; deleting certain budget summary
 4 requirements; repealing s. 339.1371, F.S., relating to
 5 Mobility 2000 funding; amending ss. 216.013 and 489.145,
 6 F.S.; conforming cross-references; providing an effective
 7 date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Subsection (4) of section 216.023, Florida
 12 Statutes, is amended to read:

13 216.023 Legislative budget requests to be furnished to
 14 Legislature by agencies.—

15 (4)~~(a)~~ The legislative budget request must contain for
 16 each program:

17 (a)1. The constitutional or statutory authority for a
 18 program, a brief purpose statement, and approved program
 19 components.

20 (b)2. Information on expenditures for 3 fiscal years
 21 (actual prior-year expenditures, current-year estimated
 22 expenditures, and agency budget requested expenditures for the
 23 next fiscal year) by appropriation category.

24 (c)3. Details on trust funds and fees.

25 (d)4. The total number of positions (authorized, fixed,
 26 and requested).

27 (e)5. An issue narrative describing and justifying changes
 28 in amounts and positions requested for current and proposed

29 programs for the next fiscal year.

30 (f)~~6~~. Information resource requests.

31 (g)~~7~~. Supporting information, including applicable cost-
 32 benefit analyses, business case analyses, performance
 33 contracting procedures, service comparisons, and impacts on
 34 performance standards for any request to outsource or privatize
 35 agency functions. The cost-benefit and business case analyses
 36 must include an assessment of the impact on each affected
 37 activity ~~from those identified in accordance with paragraph (b)~~.
 38 Performance standards must include standards for each affected
 39 activity and be expressed in terms of the associated unit of
 40 activity.

41 (h)~~8~~. An evaluation of any major outsourcing and
 42 privatization initiatives undertaken during the last 5 fiscal
 43 years having aggregate expenditures exceeding \$10 million during
 44 the term of the contract. The evaluation shall include an
 45 assessment of contractor performance, a comparison of
 46 anticipated service levels to actual service levels, and a
 47 comparison of estimated savings to actual savings achieved.
 48 Consolidated reports issued by the Department of Management
 49 Services may be used to satisfy this requirement.

50 (i)~~9~~. Supporting information for any proposed consolidated
 51 financing of deferred-payment commodity contracts including
 52 guaranteed energy performance savings contracts. Supporting
 53 information must also include narrative describing and
 54 justifying the need, baseline for current costs, estimated cost
 55 savings, projected equipment purchases, estimated contract
 56 costs, and return on investment calculation.

57 (j)10. For projects that exceed \$10 million in total cost,
 58 the statutory reference of the existing policy or the proposed
 59 substantive policy that establishes and defines the project's
 60 governance structure, planned scope, main business objectives
 61 that must be achieved, and estimated completion timeframes.
 62 Information technology budget requests for the continuance of
 63 existing hardware and software maintenance agreements, renewal
 64 of existing software licensing agreements, or the replacement of
 65 desktop units with new technology that is similar to the
 66 technology currently in use are exempt from this requirement.

67 ~~(b) It is the intent of the Legislature that total~~
 68 ~~accountability measures, including unit cost data, serve not~~
 69 ~~only as a budgeting tool but also as a policymaking tool and an~~
 70 ~~accountability tool. Therefore, each state agency and the~~
 71 ~~judicial branch must submit a summary of information for the~~
 72 ~~preceding year in accordance with the legislative budget~~
 73 ~~instructions. Each summary must provide a one page overview and~~
 74 ~~must contain:~~

- 75 1. ~~The final budget for the agency and the judicial~~
 76 ~~branch.~~
- 77 2. ~~Total funds from the General Appropriations Act.~~
- 78 3. ~~Adjustments to the General Appropriations Act.~~
- 79 4. ~~The line item listings of all activities.~~
- 80 5. ~~The number of activity units performed or accomplished.~~
- 81 6. ~~Total expenditures for each activity, including amounts~~
 82 ~~paid to contractors and subordinate entities. Expenditures~~
 83 ~~related to administrative activities not aligned with output~~
 84 ~~measures must consistently be allocated to activities with~~

85 ~~output measures prior to computing unit costs.~~

86 ~~7. The cost per unit for each activity, including the~~
 87 ~~costs allocated to contractors and subordinate entities.~~

88 ~~8. The total amount of reversions and pass-through~~
 89 ~~expenditures omitted from unit-cost calculations.~~

90

91 ~~At the regular session immediately following the submission of~~
 92 ~~the agency unit cost summary, the Legislature shall reduce in~~
 93 ~~the General Appropriations Act for the ensuing fiscal year, by~~
 94 ~~an amount equal to at least 10 percent of the allocation for the~~
 95 ~~fiscal year preceding the current fiscal year, the funding of~~
 96 ~~each state agency that fails to submit the report required under~~
 97 ~~this paragraph.~~

98 Section 2. Section 339.1371, Florida Statutes, is
 99 repealed.

100 Section 3. Paragraph (h) of subsection (1) of section
 101 216.013, Florida Statutes, is amended to read:

102 216.013 Long-range program plan.—State agencies and the
 103 judicial branch shall develop long-range program plans to
 104 achieve state goals using an interagency planning process that
 105 includes the development of integrated agency program service
 106 outcomes. The plans shall be policy based, priority driven,
 107 accountable, and developed through careful examination and
 108 justification of all agency and judicial branch programs.

109 (1) Long-range program plans shall provide the framework
 110 for the development of budget requests and shall identify or
 111 update:

112 (h) Legislatively approved output and outcome performance

113 | ~~measures. Each performance measure must identify the associated~~
 114 | ~~activity contributing to the measure from those identified in~~
 115 | ~~accordance with s. 216.023(4)(b).~~

116 | Section 4. Paragraph (a) of subsection (6) of section
 117 | 489.145, Florida Statutes, is amended to read:

118 | 489.145 Guaranteed energy, water, and wastewater
 119 | performance savings contracting.-

120 | (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
 121 | Department of Management Services, with the assistance of the
 122 | Office of the Chief Financial Officer, shall, within available
 123 | resources, provide technical content assistance to state
 124 | agencies contracting for energy, water, and wastewater
 125 | efficiency and conservation measures and engage in other
 126 | activities considered appropriate by the department for
 127 | promoting and facilitating guaranteed energy, water, and
 128 | wastewater performance contracting by state agencies. The
 129 | Department of Management Services shall review the investment-
 130 | grade audit for each proposed project and certify that the cost
 131 | savings are appropriate and sufficient for the term of the
 132 | contract. The Office of the Chief Financial Officer, with the
 133 | assistance of the Department of Management Services, shall,
 134 | within available resources, develop model contractual and
 135 | related documents for use by state agencies. Prior to entering
 136 | into a guaranteed energy, water, and wastewater performance
 137 | savings contract, any contract or lease for third-party
 138 | financing, or any combination of such contracts, a state agency
 139 | shall submit such proposed contract or lease to the Office of
 140 | the Chief Financial Officer for review and approval. A proposed

HB 4097

2011

141 contract or lease shall include:

142 (a) Supporting information required by s. 216.023(4)(i) ~~s.~~
 143 ~~216.023(4)(a)9.~~ in ss. 287.063(5) and 287.064(11). For contracts
 144 approved under this section, the criteria may, at a minimum,
 145 include the specification of a benchmark cost of capital and
 146 minimum real rate of return on energy, water, or wastewater
 147 savings against which proposals shall be evaluated.

148

149 The Office of the Chief Financial Officer shall not approve any
 150 contract submitted under this section from a state agency that
 151 does not meet the requirements of this section.

152 Section 5. This act shall take effect July 1, 2011.